

Exhibit 45

JOHN McDERMOTT
1/19/2022

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UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE			
HUNTERS CAPITAL, LLC, et al.,) Plaintiffs,) vs.) No. 20-cv-00983-TSZ CITY OF SEATTLE,) Defendant.)			
ZOOM 30(b)6 Deposition Upon Oral Examination of SRJ dba CAR TENDER - JOHN McDERMOTT			
DATE: Wednesday, January 19, 2022 REPORTED BY: Mindy L. Suurs, CSR No. 2195			
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1 APPEARANCES 2 For the Plaintiff: 3 4 TYLER S. WEAVER 5 Calfo Eakes 6 1301 Second Avenue 7 Suite 2800 8 Seattle, Washington 98101 9 10 For the Defendant: 11 ERICA IVERSON 12 Harrigan Leyh Farmer Thomsen 13 999 Third Avenue 14 Suite 4400 15 Seattle, Washington 98104 16 17 Also Present: Karl Benitez, Royal Video Productions 18 19 20 21 22 23 24 25		1 Wednesday, January 19, 2022 2 9:10 a.m. 3 4 --oo0-- 5 THE VIDEOGRAPHER: We are now on the record. 6 Today is January 19, 2022. The time is now 9:10 a.m. This 7 is Volume No. 1, Media No. 1 in the deposition of John 8 McDermott in the matter of Hunters Capital, LLC, et al., 9 versus City of Seattle. We are recording via the internet 10 using Zoom video conferencing. My name is Karl Benitez. 11 I'm representing Royal Video Productions on behalf of Rough 12 & Associates. Today's court reporter is Mindy Suurs. 13 At this time I would like to ask all counsel 14 present to identify themselves. 15 MS. IVERSON: Morning. Erica Iverson on behalf 16 of the City of Seattle. 17 MR. WEAVER: And this is Tyler Weaver on behalf 18 of the plaintiffs. As requested off the record, I am off 19 camera at the moment due to some technical issues involving 20 a second computer that hopefully we will resolve later. 21 But I am in the same room as Mr. McDermott. 22 THE VIDEOGRAPHER: Thank you very much. 23 Madam Court Reporter, please swear in the 24 witness. 25	

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<p>Page 129</p> <p>1 the pandemic. There's still people fearful of the pandemic 2 that don't go out. So to see the numbers dip and then to 3 see them start to rise and then, you know -- and based on 4 conversations with other shops that weren't in the CHOP, 5 people's ability to come back stronger than they were 6 before during the pandemic -- there's numerous shops that 7 have reported that to me and asked me the question, well, 8 why are your numbers still down, you know, because there 9 are, you know, business communities that you compare 10 numbers with.</p> <p>Q. Right, but I'm just talking about your numbers 11 for now. That's --</p> <p>A. You asked the question; I'm answering it.</p> <p>Q. I think we've --</p> <p>A. The reason our numbers did not recover was 15 because of CHOP, because we had to move our business. The 16 reason we had to move our business -- and I don't know if 17 you've ever had anybody point a gun at you or had 10 or 20 18 or 30 guns pointed at you. It's not a very comforting 19 feeling, and --</p> <p>Q. So just --</p> <p>A. -- to ask people to come to that environment -- 23 they don't what to come see us.</p> <p>Q. Okay. So focus on --</p> <p>25 A. We had customers that would drive to our shop to</p>	<p>Page 131</p> <p>1 where it ended up.</p> <p>2 Q. Okay. So is it fair to say that the decrease in 3 total sales in March, April, and May of 2020 is 4 attributable to COVID?</p> <p>5 A. Sure.</p> <p>6 Q. Okay. And then just looking at June 2020, so I 7 know -- I know you mentioned CHOP. You used a couple of 8 dates, so I think you said earlier May 29th. Is that the 9 date that you consider CHOP to have started?</p> <p>10 A. Basically because that's when all the riots 11 started happening. That's not the date that they installed 12 the barriers, but that's when the City started allowing all 13 the rioting and all that stuff to go on.</p> <p>14 Q. Okay. And so based on -- and we'll get to that, 15 but fair to say that CHOP was ongoing in June of 2020; 16 correct?</p> <p>17 A. Without question.</p> <p>18 Q. And was the pandemic still ongoing at that point?</p> <p>19 A. Last I checked when I got up this morning, it's 20 still ongoing today.</p> <p>21 Q. So is that a yes?</p> <p>22 A. It would be a yes.</p> <p>23 Q. And you mentioned earlier that you had an 24 employee who left in 2018 -- he got injured and he left; 25 right?</p>
<p>Page 130</p> <p>1 get their car repaired, realize where it was, turn around 2 and leave.</p> <p>3 Q. Uh-huh. Okay. And so in February to March, you 4 were saying that, because of the pandemic, there were fewer 5 cars on the road in March of 2020; right?</p> <p>6 A. And fewer people that wanted to get their cars 7 repaired.</p> <p>8 Q. Okay, and fewer people that wanted to get their 9 cars repaired. So -- and March, April, May monthly sales 10 in 2020 were all sort of around the same number? Do you 11 agree with that?</p> <p>12 MR. WEAVER: Objection.</p> <p>13 A. Let me look. I can't remember.</p> <p>14 BY MS. IVERSON:</p> <p>15 Q. So we can go -- you can just go down one page 16 to --</p> <p>17 A. Yeah --</p> <p>18 Q. -- scroll all the way down to that other page. 19 This is just one page down from where we were. So March, 20 April, May 2020, we can focus again on total sales since we 21 are talking about sales.</p> <p>22 A. I mean for the individual months, I mean it went 23 obviously down from March to April, and they opened things 24 back up, it's kind of end May, and then it started picking 25 back up in June and then the CHOP hit and that's kind of</p>	<p>Page 132</p> <p>1 A. Correct.</p> <p>2 Q. And you hadn't replaced him --</p> <p>3 A. Correct.</p> <p>4 Q. -- as of June 2020; right? Okay. So you had 5 this same employee was gone for all of 2019, and he was 6 gone at least up until --</p> <p>7 A. I think in February of 2020 they determined that 8 he was permanently disabled.</p> <p>9 Q. Okay, but so --</p> <p>10 A. I mean I'd have to look and find out. I can't 11 remember.</p> <p>12 Q. Right, and you hadn't replaced him; right?</p> <p>13 A. No.</p> <p>14 Q. Okay. So it looks like in June of 2020, your 15 total sales were \$101,955; is that right?</p> <p>16 A. According to the statement, I'd say yes.</p> <p>17 Q. And obviously that's higher than what they were 18 in May of 2020; correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And then if we could just turn back to 21 Exhibit 130, please.</p> <p>22 A. You know, the other thing you have to understand 23 too is part of, you know, per our previous conversation 24 that, you know, we could have repaired those cars in May 25 and they might not have left until June, and they could</p>

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<p style="text-align: center;">Page 169</p> <p>1 A. Right at the corner of 12th and Olive. 2 Q. Okay, was it perpendicular to the parking lot, as 3 in did the barrier stretch across -- 4 A. It was -- it was -- they did stretch across 12th 5 Avenue and they were perpendicular to one edge of the lot 6 or parallel to one edge as well. 7 Q. Perpendicular to -- 8 A. So this is perpendicular. 9 Q. Uh-huh. 10 A. This is parallel. And I think my lot parallels 11 Olive, one edge of my lot parallels 12th, so it was equally 12 perpendicular and parallel. 13 Q. Okay. So it was more than one barrier? 14 A. There was multiple barriers, yeah. 15 Q. Do you know how many? 16 A. I believe there was two. There may have been 17 three. 18 Q. Okay. So one of them was in the intersection 19 of -- 20 A. Yeah, I didn't take pictures of them, so I can't 21 remember how many. 22 Q. Oh, okay. But you observed them being put up; 23 right? 24 A. Yep, yep. 25 Q. -- were there every day from that point forward;</p>	<p style="text-align: center;">Page 171</p> <p>1 Q. Okay. And so did the barriers in front of Car 2 Tender block access to Olive street at all? 3 A. Yes, I mean if -- have you looked at a map where 4 they placed the barriers? 5 Q. I -- I am asking -- 6 A. Do you have access to that? 7 Q. I'm just asking for your description of where the 8 barriers were placed. If you can't answer it, that's fine, 9 just let me know. 10 A. I can, it's just -- I mean -- anyways, yes, they 11 were on 12th Avenue. 12 Q. Okay. They were on 12th Avenue, but they weren't 13 on Olive Street? 14 A. At my location. 15 Q. Sorry. 16 A. At my location. 17 Q. Olive Street at Car Tender's location, okay. And 18 so once those barriers were -- once the 12th Avenue barrier 19 was put up -- 20 A. Once the main access to Car Tender was blocked 21 off, yeah. 22 Q. Uh-huh, so did you change the access point to the 23 parking lot? 24 A. No. 25 Q. Okay. So how -- how did customers get into --</p>
<p style="text-align: center;">Page 170</p> <p>1 right? Okay. 2 A. Yep. 3 Q. And so -- but you just -- you don't know how many 4 it was? 5 A. I don't. 6 Q. Okay. And so they were -- but there were at 7 least two? 8 A. I believe it was three, minimum two. 9 Q. Okay. So two to three? 10 A. Yep. 11 Q. Okay. And was one of them in the intersection -- 12 were they in the crosswalk? Where were they placed? 13 A. They were before the crosswalk. 14 Q. Okay, before the crosswalk. And did they stretch 15 from the west to the east side of the street? 16 A. Yep. 17 Q. On 12th Avenue? 18 A. Yep. 19 Q. Okay, and they stretched from the north to the 20 south side of the street on Olive? 21 A. They did not on Olive. They did not. They did 22 not put them on Olive. 23 Q. They were not on Olive, okay. So the barriers 24 that you're talking about were only on 12th Avenue. 25 A. Yeah.</p>	<p style="text-align: center;">Page 172</p> <p>1 drive -- sorry, did customers then drive their cars into 2 Car Tender's parking lot? 3 A. Yes, only way they could get there was from the 4 north. 5 Q. Okay. So from the north on 12th Avenue? 6 A. Yes. 7 Q. Okay. And then so when that -- at that point, so 8 June 8th, you watched the barriers get put up; is that 9 right? 10 A. Yes. 11 Q. Okay. And then did you at any point after that 12 change your store hours? 13 A. No, we were still there normal hours. 14 Q. Okay, normal hours. So normal at that time 15 was -- 16 A. 8:00 to 5:00. 17 Q. Okay, got it. And then I know -- so you talked 18 about some customer -- customer impacts. At that point, 19 June 8th and beyond, did any customers come to your store 20 in the month of June? 21 MR. WEAVER: Objection, asked and answered. 22 A. After the 8th, yes. 23 BY MS. IVERSON: 24 Q. And what about in July? 25 A. I mean you can see obviously in July customers</p>

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1 REPORTER'S CERTIFICATE
2

3 I, Mindy L. Suurs, the undersigned Certified Court
4 Reporter, pursuant to RCW 5.28.010, authorized to
5 administer oaths and affirmations in and for the State of
6 Washington, do hereby certify:

7 That the foregoing testimony of JOHN McDERMOTT
8 was given before me at the time and place stated therein
9 and thereafter was transcribed under my direction;

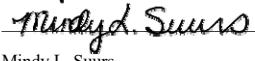
10 That the sworn testimony and/or proceedings were by me
11 stenographically recorded and transcribed under my
12 supervision, to the best of my ability;

13 That the foregoing transcript contains a full, true,
14 and accurate record of all the sworn testimony and/or
15 proceedings given and occurring at the time and place
16 stated in the transcript;

17 That the witness, before examination, was by me duly
18 sworn to testify the truth, the whole truth, and nothing
19 but the truth;

20 That I am not a relative, employee, attorney, or
21 counsel of any party to this action or relative or employee
22 of any such attorney or counsel and that I am not
23 financially interested in the said action or the outcome
24 thereof;

25 DATE: January 25, 2022



Mindy L. Suurs
Certified Court Reporter #2195